

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 01 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

V.

DAVID CANTER,

Defendant - Appellant.

No. 05-50053

D.C. No. CR-02-01212-R-02

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Argued and Submitted January 9, 2006
Pasadena, California

Before: SCHROEDER, Chief Judge, LEAVY, Circuit Judge, and SEDWICK^{**},
District Judge.

David Canter appeals the district court's judgment, reaffirming his sentence, on remand from this court for further proceedings under U.S. v. Castro, 382 F.3d 927 (9th Cir. 2004) (per curiam).

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The Honorable John W. Sedwick, United States District Judge for the District of Alaska, sitting by designation.

The district court issued this decision on remand after the Supreme Court had decided U.S. v. Booker, 129 S. Ct. 738 (2005), holding that the Guidelines were advisory and not mandatory. Canter now asks that the matter be remanded again, because, he contends, the district court still must make an express finding that the prior sentence was reasonable before it may lawfully reaffirm the prior sentence. On the basis of this record, no such finding is now required. There is no suggestion in the record of any reason why this sentence should be deemed unreasonable. None has been presented in the briefs or at oral argument. Another remand is not necessary.

AFFIRMED.